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**From:** LEE, LILY [LEE.LILY@EPA.GOV]  
**Sent:** 1/22/2018 11:35:50 PM  
**To:** Fairbanks, Brianna [Fairbanks.Brianna@epa.gov]  
**CC:** Chesnutt, John [Chesnutt.John@epa.gov]; Lane, Jackie [Lane.Jackie@epa.gov]; Yogi, David [Yogi.David@epa.gov]  
**Subject:** FW: Hunters Point Naval Shipyard Radiological Fraud - Data Evaluation  
**Attachments:** Draft HPNS Report\_Parcels B and G Soil\_092917.pdf; Draft HPNS Report\_Parcel C Soil\_111717.pdf; Draft HPNS Report\_Parcel E Soil\_122917.pdf

**From:** David Anton [mailto:davidantonlaw@gmail.com]  
**Sent:** Monday, January 22, 2018 3:25 PM  
**To:** douglas.delong.ctr@navy.mil; LEE, LILY <LEE.LILY@EPA.GOV>; Slack, Matthew L CIV SEA 04 04N <matthew.slack@navy.mil>; Edwards, Zachary L CIV SEA 04 04N <zachary.edwards@navy.mil>; Janda, Danielle L CIV <danielle.janda@navy.mil>; raymond.powell@nrc.gov; orysia.masnykbailey@nrc.gov; doremussw@raso.navy.mil  
**Subject:** Hunters Point Naval Shipyard Radiological Fraud - Data Evaluation

I am reaching out to each of you because each of you has been involved and have expertise that I am hoping you will use to assist the Navy in avoiding further failures in proper radiological remediation of the Hunters Point Superfund site.

Concerning the Bayview Hunters Point Naval Shipyard [herein HPS], we are writing you on behalf of Greenaction for Health and Environmental Justice and the whistleblowers who have reported the radiological frauds at HPS. The Golden Gate University School of Law's Environmental Law and Justice Clinic with myself, attorney David Anton, have submitted to the United States Navy and related agencies whistleblower information - which clearly indicates radiological remediation performed at HPS by Tetra Tech EC, Inc. was fraudulent in many ways and over a period of many years.

We have been informed your organizations in a number of ways over a number of years that the radiological remediation of HPS was fraudulent. We understand that your organizations have some continuing involvement and will have some hand in how the fraud is redressed. The Navy has retained private companies to prepare reports that evaluate the radiological data to determine the extent of the soil sampling fraud at HPS. Draft reports have now been produced by these companies. We have reviewed the "Draft Radiological Data Evaluation Findings Report for Parcels B and G Soil - Former Hunters Point Naval Shipyard San Francisco, California September 2017", the "Draft Radiological Data Evaluation Findings Report for Parcel C Soil - Former Hunters Point Naval Shipyard San Francisco, California November 2017", and the "Draft Radiological Data Evaluation Findings Report for Parcel E Soil - Former Hunters Point Naval Shipyard San Francisco, California December 2017" [Herein "Draft Reports"]. I have attached the Draft Reports to this e-mail. A link to Attachment C for the Parcels B and G soil report is at Tetra Tech page: [https://www.dropbox.com/sh/1gfn7ja0fc3c5l6/AAD7-9qzmbhhUTkGvpN4p\\_Xua?dl=0](https://www.dropbox.com/sh/1gfn7ja0fc3c5l6/AAD7-9qzmbhhUTkGvpN4p_Xua?dl=0). We are contacting you to clarify the Draft Reports, and hope you will provide input to the Navy after your review of these reports. We believe that the Draft Reports do not consider large areas of fraud that have been reported, such as the scan frauds of buildings and soil, and the fraud involving in the releasing of soil off-site. We also believe that the Draft Reports fail to consider key information in reaching suspect conclusions, such as failing to consider Chain of Custody document information, and failing to interview key individuals involved in the frauds.

Based on statements of reporting ex-employees, and the record systems used at Hunters Point, a critical element of evidence which clearly aids in determining if soil samples were fraudulent is the Chain of Custody documentation that was required to accompany the soil sample. Detailed statements have been furnished by HPS ex-employees who were personally involved and who possess technical expertise as to how existing Chain of Custody documents of record are key to exposing a significantly large volume of soil sample frauds. Within each of the three Draft Reports, specifically at Section 3 page 4 the footnote on that page states that the Chain of Custody documents for soil samples in question were NOT considered. Further, the same footnote documents that only 2009 and subsequent year Chain of Custody

documents were obtained for later review - although many of the units considered in the Draft Reports relate to soil samples taken during the 2006, 2007, and 2008 timeframes. The Tetra Tech EC, Inc. contract with the Navy required that ALL radiological samples and Chain of Custody documents be retained for future legal reference pursuant to U.S. Nuclear Regulatory Commission and Code of Federal Regulation requirements in addition to the HPS Standard Operating Procedures required by the Navy. Please explore whether there is an explanation as to why the Chain of Custody documents for 2006, 2007 and 2008 timeframes have not been collected and evaluated. We ask whether the 2006-2008 Chain of Custody documents will be obtained. We ask when it is expected that the Chain of Custody document information for all relevant years will be folded into the report and modify the conclusions where appropriate in the reports. If your organization would like information and clarity as to how the Chain of Custody documents are a central key to the evaluation of whether a soil sample was falsified as the whistleblowers have previously explained, please contact me. If you and your organization has not been involved in the determination to do these draft reports without the Chain of Custody documentation being considered, please review the possible importance of this evidence in the evaluation of the fraud. Please provide your expertise to the Navy so that this important evidence is considered in the effort to determine the extent of the fraud at HPS.

The data evaluation of the Draft Reports fail to take into account the data creation fraud that whistleblowers have reported. For example, whistleblower employees reported that Tetra Tech EC, Inc. engaged in extensive changing of scan data. Yet the Draft Reports take such fraudulent scan data and use it throughout the report as part of a finding/conclusion/justification to conclude there was not soil sampling fraud for one suspect unit after unit. The Draft Reports' use and incorporation of manipulated scan data to reach the conclusion that there is no evidence of radiological soil sample fraud raises multiple red flags. The Draft Reports' use of manipulated scan data to conclude no evidence of soil sample fraud does not expose radiological fraud. The lack of a forensic analysis of whether the scan data was fraudulently changed by Tetra Tech EC is a problem for the Draft Reports' use of the scan data in light of the information that massive changes to scan data were fraudulently made. It appears that this data evaluation process did not include a forensic analysis of whether the scan data was fraudulently changed by Tetra Tech EC. We note that the listing of allegations in the Draft Reports does not include the allegation that scan data was changed in the field and office to bring down scan readings that were too high and raise scan readings that were too low, and that experienced field workers and supervisors were given this fraudulent task day after day. Has there been any forensic evaluation of the scan data to determine if the scan data was changed as alleged? If you have not been involved in the determination to use the scan data as a guide to determine if the soil samples are fraudulent, please provide your expertise to the Navy on this issue. It seems the Draft Reports have gone astray by treating the scan data as if it is valid when the whistleblowers have reported that employees were tasked with changing the data to fool the Navy and regulators. Your expertise in understanding how the data can be changed, and the effect changed scan data can have on the Draft Reports may be important to a valid and reliable evaluation of the radiological fraud at HPS.

The Draft Reports also are contradictory, lack clarity, and summary conclusions that do not appear supported by the findings. For example, using the Parcel B and G Draft Report, the Attachment C showed at least 28 units evaluated in that Draft Report where there was a finding that the sample history showed more than one data population, but the Draft Report concluded there was not evidence of soil sample fraud. [TU 001, TU002, TU004, TU005, TU026, TU037, TU040, OB013, OB015, OB016, OB042, OB071, OB095, OB108, OB110, OB185, OB189, OB192, OB193, OB200, OB233, OB241, BLDG. 103-S000B-S000G]. As is understood of the finding of "more than one data population", this finding is what would be expected when field sampling technicians obtained soil from a location different than where the soil sample claimed to have been collected, **exactly the fraud alleged** in the first bullet point at 2.5 of each of the Draft Reports. This contradictory finding is repeated multiple times in the Parcel C and Parcel E Draft Reports Attachment C. Please explain how it can be concluded that there is "no evidence of potential data falsification" when the existence of more than one data population is exactly the type of evidence that shows soil sample fraud. We ask that you also review these findings and express to the Navy if you too conclude that the findings of these Draft Reports are contradictory and do not appear in harmony with the data information that two data populations are involved in the soil samples.

The Draft Reports' summary conclusions also are in conflict with statistical determinations and related findings designed to expose data fraud. For example, in Attachment C to the Draft Report for Parcels B and G, in TU001, TU002, and TU005 each of the Data Evaluation Forms conclude "no evidence of potential data falsification" - yet throughout the

Data Evaluation Forms for these units there are findings that the data shows evidence of falsification. In all three, the data failed the K-S tests. In all three the data failed the Time Series Plot test. In all three the data failed the "Additional Data Review". For TU001 and TU002 the data also failed the Historic Radiological Location test, and TU005 should have failed that test for elevated Radium-226 and Cesium-137 samples were obtained from trench unit TU005. The Evaluation Forms for TU001, TU002, and TU005 contain further information supporting data falsification, such as lower RA-226 and Cs-137 than would be expected, and multiple data populations. With multiple findings supporting data falsification how can it be justifiably concluded there is "no evidence of potential data falsification"? These apparently contradictory conclusions are throughout Attachment C for dozens of units reviewed in the Parcel B and C report, the Parcel C report, and the Parcel E report. Please explain this information for the conclusion appears contradictory to the specific findings. If you have not been involved in the Draft Report creation, please review the Data Evaluation Forms and applying your expertise to provide input to the Navy for it appears that that Draft Reports' conclusions are contrary to the statistical evaluation and studies performed.

We look forward to your response and we hope you will assist the Navy in considering the limitations and inadequacies of the Draft Reports regarding HPS. There is substantial public question about what happened at HPS regarding the radiological remediation and why. The issues and apparent problems with the Draft Reports can be expected to fuel public concern that a proper response to the radiological fraud at HPS will not be forthcoming. With your assistance it may be possible to re-direct the HPS radiological path for the benefit of the Navy, the regulators, the public, and the environment.

Thank you,

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